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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/541,410

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Alisdair Gilbert Pearce

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EXAMINER

PAGAN, JENINE MARIE

ART UNIT

PAPER NUMBER

3728

MAIL DATE

DELIVERY MODE

10/16/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/541,410	Applicant(s) PEARCE ET AL.	
	Examiner JENINE M. PAGAN	Art Unit 3728	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 July 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 July 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>7/10/2006</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Oath/Declaration

2. The Office is hereby *sua sponte* waiving the express language requirement of 37 CFR 1.63(b)(3), where the oath or declaration was filed prior to 01 June 2008. The express language of 37 CFR 1.63(b)(3) is waived only to the extent necessary such that an oath or declaration containing the "material to examination" or "in accordance with § 1.56(a)" language, or both, will be accepted as acknowledging the applicant's duty to disclose information "material to patentability" as defined in 37 CFR 1.56. Applicants are advised that, notwithstanding the preceding waiver, an applicant who has not disclosed information that is material to patentability as defined in 37 CFR 1.56, because it was believed that the information was not "material to the examination," should disclose such information in order to discharge the applicant's duty of disclosure as required by 37 CFR 1.56, and should file a supplemental oath or declaration acknowledging that duty of disclosure.

Information Disclosure Statement

3. The information disclosure statement (IDS) submitted on 10 July 2006 is being considered by the examiner.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

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The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claim 7 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. It is not seen how the blister pack being added to the container while the second closure is partially fitted to container.

Claim Objections

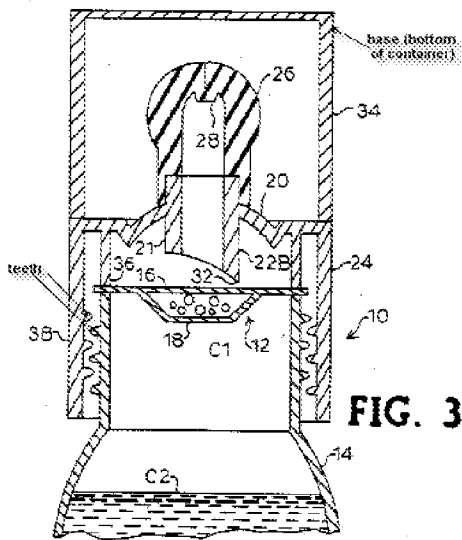
6. Claim 16 is objected to because of the following informalities: It is unclear what is meant by the term "anannulus". For examination purposes, it will be assumed that the term should be "annulus". Appropriate correction is required.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.



8. Claims 1-5, 9-11, 13 and 16-17 are rejected under 35 U.S.C. 102(e) as being anticipated by Mollstam et al. (US PG Pub 2002/0179461 A1).

Claim 1: When viewed in inverted manner, Mollstam discloses a dispenser (Figure 3 and 4):

- a container 10 with a first aperture (see figure above) and a first closure element 34 for sealingly closing the first aperture
- the container 10 has a second aperture (see figure above), and a second closure element 24 for closing said second aperture
- pressing element 20 operable to press inwardly towards said second aperture
- a blister pack 12, locating element 36 locating said blister pack 12 to span across said second aperture (see figure above), sealing element 28 sufficient to ensure the second aperture is sealingly closable against leakage of the intended contents of the dispenser (Para. 0033)

- the construction and arrangement being such that in end use the container 10 holds a first substance C2 and the blister pack holds a second substance C1 and when the pressing element 20 is pushed the blister pack 12 is ruptured enabling the mixing of the contents thereof with those of the container

Claim 2: Mollstam discloses a dispenser (Figure 3 and 4):

- a peripheral annulus (see figure above) of the blister pack 12 is engaged by said location element 36 and the blister pack 12, in conjunction with said sealing element sealingly closes directly against the periphery of said second aperture whether the blister pack is ruptured or not.

The Examiner considers the sealing lips of 26 that connect to the pressing elements which are integral to the locating element 26 that connects to the peripheral edges of the blister to be the conjunction of the sealing elements and being directly against the periphery of the second aperture.

Claim 3: Mollstam discloses a dispenser (Figure 3 and 4):

- the blister pack 12 is held by said locating element 36 in a suitable position within said second closure element 24 to span across said second aperture (see figure above) but not to effect sealing closure of it and other parts of said second closure element 24 including said sealing element 28 sealingly close the second aperture

Claim 4: Mollstam discloses a dispenser where the second aperture (see figure above) is downward facing at the base of the container.

The Examiner considers the base of the container to be shown in figure above at the second closure 34.

Claim 5: Mollstam discloses a dispenser where the pressing element 20 is in the form of a flexible diaphragm which is an integral part of the second closure element. (Para. 0030)

Claim 9: Mollstam discloses a dispenser (Figure 3 and 4):

- the second closure element 24 is substantially in the form of a cup adapted to form the base of the dispenser and to shield said pressing element 20 from inadvertent pressing

Claim 10: Mollstam discloses a dispenser (Figure 3 and 4):

- second closure element 24 has a cylindrical skirt 38 with a female thread adapted to mate with a corresponding male thread on a cylindrical wall forming part of the base of said container 10

Claim 11: Mollstam discloses a dispenser (Figure 3 and 4):

- cylindrical skirt 38 and said cylindrical wall have mateable ramped teeth so that when threaded sufficiently together the respective teeth progressively mutually engage and prevent counter-rotation (see figure above)

Claim 13: Mollstam discloses a dispenser (Figure 3 and 4):

- the blister pack contains a solid tablet (Para 0037)

Claim 16: Mollstam discloses a dispenser:

- the sealing element 28 is annulus of compressible sealing material

Claim 17: Mollstam discloses a dispenser (Figure 3 and 4):

- the first closure element 34 and said first aperture (see figure above) and surrounding portion of the container 10 are substantially identical to those of said second aperture (see figure above) and said second closure element 24

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 14-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mollstam et al. (US PG Pub 2002/0179461 A1).

Claim 14: Mollstam '461 discloses the claimed invention as stated above in claim 1 with reference to Figure 3 and 4 except:

- only the side of the blister pack facing inwards is rupturable and the other side is flexible but not able to be ruptured by operation of the pressing element

However Mollstam discloses with reference to Figure 6:

- only the side of the blister pack 12 facing inwards is rupturable and the other side is flexible but not able to be ruptured by operation of the pressing element 20

It would have been an obvious matter of design choice to have the one side of the of the blister pack be rupturable by the pressing element.

Mollstam has disclosed two different embodiments which demonstrate whether the pressing element ruptures one or both sides of the blister pack they will both perform the same function. Since applicant has not disclosed that only rupturing one side of the blister pack solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well with the pressing element being ruptured on one or both sides of the blister pack, it is considered an obvious matter of design choice to have the one side of the of the blister pack be rupturable by the pressing element.

Claim 15: Mollstam '461 discloses a dispenser:

- the inner facing side is a metal foil (Para 0029)

11. Claims 6, 8 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mollstam et al. (US PG Pub 2002/0179461 A1) in view of Mollstam et al. (US PG Pub 2001/0004054 A1).

Claim 6: Mollstam '461 discloses the claimed invention as stated above in claim 1 and 10 except:

- the second closure element includes security element preventing the second closure element 24 from being removed from said container 10 once fully fitted

However Mollstam '054 discloses (Para 0027):

- the second closure element includes security element 40 preventing the second closure element from being removed from said container once fully fitted

It would have been obvious to one having ordinary skill in the art at the time the invention was made to security element attached to the second closure as taught by Mollstam '054, since Mollstam '054 states at Para 0028 that such a modification would have been obvious and well known in the art in order to prevent the second closure from being removed and preventing leakage.

Claim 8: Mollstam '461 discloses a dispenser:

- second closure element 24 may removably and sealingly close said second aperture (see figure above) even when partially fitted thus allowing the requisite substance to be inserted in said container 10 prior to the placement of said blister pack 12 and subsequent fully fitting said second closure element 24

Claim 12: Mollstam '461 discloses the claimed invention as stated above in claim 1 and 10 except:

- the walls are welded or glued together when fully fitted

However Mollstam '054 discloses (Para 0028):

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- the walls are welded or glued together when fully fitted

It would have been obvious to one having ordinary skill in the art at the time the invention was made to seal the walls together by glue or heat sealing as taught by Mollstam '054, since Mollstam '054 states at Para 0028 that such a modification would have been obvious and well known in the art in order to prevent the container from leakage.

Conclusion

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JENINE M. PAGAN whose telephone number is (571)270-3216. The examiner can normally be reached on Monday - Thursday, 8am-4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on (571) 272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/J. Gregory Pickett/
Primary Examiner, Art Unit 3728

/Jenine M Pagan/
Examiner, Art Unit 3728

/J. M. P. /
Examiner, Art Unit 3728